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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT
Honorable Ralph King Anderson, III, Chief Judge

Case No. 2017-ALJ-17-0418-CC
Appellate Case No. 2020-000999

Synovus Bank,

Appellant,

v.

South Carolina Department of Revenue,

Respondent.

**FIRST CITIZENS BANK & TRUST COMPANY
NOTICE OF MOTION AND MOTION FOR
LEAVE TO FILE AN AMICUS CURIAE BRIEF**

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Attorney for Amicus Curiae,
First Citizens Bank & Trust Company

Under Rule 213 of the South Carolina Appellate Court Rules, First Citizens Bank & Trust Company (“First Citizens”) submits this Motion for Leave to File a Brief of Amicus Curiae with the attached First Citizens’ Amicus Curiae Brief. The motion should be granted since First Citizens has an interest in the Synovus case and a brief from First Citizens is desirable.

I. INTEREST OF AMICUS CURIAE

First Citizens’ interest in filing an amicus brief lies in the similarly-situated status of Synovus Bank and First Citizens. Both are foreign corporations conducting multistate businesses; both do business in South Carolina; both operate as banks in South Carolina and pay taxes as banks; both filed with the South Carolina Department of Revenue (“SCDOR”) refund claims for the return of previously paid bank taxes; both assert the refunds are due because banks are entitled to net operating loss (“NOL”) carryforward deductions; and in both SCDOR denied the refund claims on the grounds banks are not entitled to NOL carryforward deductions.

Hence, the controversies in Synovus and First Citizens both raise similar issues and create a likelihood this Court’s decision in Synovus will have a significant—if not controlling—impact on First Citizens’ dispute with SCDOR. Accordingly, First Citizens has a strong interest in the Synovus case.

II. REASONS WHY AN AMICUS CURIAE BRIEF IS DESIRABLE

First Citizens’ brief is desirable in assisting the Court in deciding the Synovus controversy. First, First Citizens’ brief offers insight establishing SCDOR’s action on NOL carryforward deductions is not an isolated controversy focused on a single bank but affects every bank doing a banking business in South Carolina, whether foreign or domestic. Second, First Citizens’ brief seeks not to repeat views presented by Synovus and SCDOR but instead analyze “entire net income” in its historical context clarifying the application of the term to banks operating in South Carolina.

WHEREFORE, Counsel for First Citizens Bank & Trust Company prays this Court enter its Order permitting First Citizens leave to file its Amicus Curiae brief.

Respectfully submitted,

s/ Rick Reames III
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Attorney for Amicus Curiae,
First Citizens Bank & Trust Company

March 13, 2023
Columbia, South Carolina

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SC Court of Appeals

CERTIFICATE OF SERVICE

The undersigned certifies a true and correct copy of the above **Notice of Motion and Motion for Leave to File an Amicus Curiae Brief** was served this 13th day of March, 2023 via Electronic Mail to the following counsel of record:

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s/ Rick Reames III

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Andrew W. Saleeby, CPA, LL.M. (Tax)
Special Counsel

March 13, 2023

VIA ELECTRONIC MAIL (CTAPPFILINGS@SCCOURTS.ORG)

The Honorable Jenny Abbot Kitchings, Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: ***Synovus Bank v. SC Department of Revenue***
Case No. 2017-ALJ-17-0418-CC
Appellate Case No. 2020-000999

Dear Ms. Kitchings:

Please find enclosed for filing First Citizens Bank & Trust Company's Motion for Leave to File Amicus Curiae Brief. Pursuant to Rule 213, SCACR, we are conditionally filing the Amicus Curiae Brief on behalf of First Citizens Bank & Trust Company with the Motion in support of Synovus Bank's appeal in the above-captioned matter. In accordance with Section (c) of the May 6, 2022 Order of the Supreme Court of South Carolina, we are separately delivering a check in the amount of \$50 within five days of this filing for the motion filing fee. Also in accordance with Section (b) of the August 25, 2021 Order of the Supreme Court of South Carolina, we are not enclosing any additional copies with the Motion or Brief; however, we are happy to provide additional copies upon the Court's request.

Please return a file-stamped copy of the Motion and Brief to me via electronic mail at your convenience.

By copy of this letter, and also pursuant to Rules 211 and 240, SCACR, we are serving a copy of the Motion and accompanying Brief on all parties of record.

Thank you for your assistance.

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Charlotte
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The Honorable Jenny Abbot Kitchings, Clerk of Court
March 13, 2023
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Sincerely,



Andrew W. Saleeby
Special Counsel
Enclosures

cc: Ashley P. Cuttino, Esq.
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Burnet R. Maybank, Esq.
Jason P. Luther, Esq.